

Tom Udall

11-20

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AMENDMENT NO. _____

Calendar No. _____

Purpose: To eliminate duplication and waste in Federal information technology acquisition and management.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

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By

Udall (NM)

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AMENDMENT intended to be proposed by Mr. UDALL of New Mexico (for himself, Mr. MORAN, and Mr. JOHANNES)

Viz:

1 At the end of title VIII, add the following:

2 **Subtitle E—Federal Information**
 3 **Technology**

4 **SEC. 881. SHORT TITLE.**

5 This title may be cited as the “Federal Information
 6 Technology Savings, Accountability, and Transparency
 7 Act of 2013”.

1 **SEC. 882. INCREASED AUTHORITY OF AGENCY CHIEF IN-**
2 **FORMATION OFFICERS OVER INFORMATION**
3 **TECHNOLOGY.**

4 (a) PRESIDENTIAL APPOINTMENT OF CIOs OF CER-
5 TAIN AGENCIES.—

6 (1) IN GENERAL.—Section 11315 of title 40,
7 United States Code, is amended—

8 (A) by redesignating subsection (a) as sub-
9 section (e) and moving such subsection to the
10 end of the section; and

11 (B) by inserting before subsection (b) the
12 following:

13 “(a) PRESIDENTIAL APPOINTMENT OR DESIGNATION
14 OF CERTAIN CHIEF INFORMATION OFFICERS.—

15 “(1) IN GENERAL.—There shall be within each
16 agency listed in section 901(b)(1) of title 31, other
17 than the Department of Defense, an agency Chief
18 Information Officer.

19 “(2) APPOINTMENT OR DESIGNATION.—Each
20 agency Chief Information Officer shall—

21 “(A) be—

22 “(i) appointed by the President; or

23 “(ii) designated by the President, in
24 consultation with the head of the agency;

25 and

1 “(B) be appointed or designated, as appli-
2 cable, from among individuals who possess dem-
3 onstrated ability in general management of, and
4 knowledge of and extensive practical experience
5 in, information technology management prac-
6 tices in large governmental or business entities.

7 “(3) RESPONSIBILITIES.—An agency Chief In-
8 formation Officer appointed or designated under this
9 section shall report directly to the head of the agen-
10 cy and carry out, on a full-time basis—

11 “(A) the responsibilities under this section;
12 and

13 “(B) the responsibilities under section
14 3506(a) of title 44 for Chief Information Offi-
15 cers designated under paragraph (2) of such
16 section.”.

17 (2) CONFORMING AMENDMENT.—Section
18 3506(a)(2)(A) of title 44, United States Code, is
19 amended by inserting after “each agency” the fol-
20 lowing: “, other than an agency with a Presidentially
21 appointed or designated Chief Information Officer,
22 as provided in section 11315(a)(1) of title 40,”.

23 (b) AUTHORITY RELATING TO BUDGET AND PER-
24 SONNEL.—Section 11315 of title 40, United States Code,

1 is further amended by inserting after subsection (c) the
2 following:

3 “(d) ADDITIONAL AUTHORITIES FOR CERTAIN
4 CIOs.—

5 “(1) BUDGET-RELATED AUTHORITY.—

6 “(A) DEFINITIONS.—In this paragraph—

7 “(i) the term ‘commercial item’ has
8 the meaning given that term in section 103
9 of title 41, United States Code; and

10 “(ii) the term ‘commercially available
11 off-the-shelf item’ has the meaning given
12 that term in section 104 of title 41, United
13 States Code.

14 “(B) PLANNING.—The head of each agen-
15 cy listed in section 901(b)(1) or 901(b)(2) of
16 title 31, other than the Department of Defense,
17 shall ensure that the Chief Information Officer
18 of the agency has the authority to participate in
19 decisions regarding the budget planning process
20 related to—

21 “(i) information technology or pro-
22 grams that include significant information
23 technology components; or

1 “(ii) the acquisition of an information
2 technology product or service that is a
3 commercial item.

4 “(C) ALLOCATION.—Amounts appro-
5 priated for an agency listed in section 901(b)(1)
6 or 901(b)(2) of title 31, other than the Depart-
7 ment of Defense, for any fiscal year that are
8 available for information technology shall be al-
9 located within the agency, consistent with the
10 provisions of appropriations Acts and budget
11 guidelines and recommendations from the Di-
12 rector of the Office of Management and Budg-
13 et, in such manner as may be specified by, or
14 approved by, the Chief Information Officer of
15 the agency in consultation with the Chief Fi-
16 nancial Officer of the agency and budget offi-
17 cials.

18 “(D) COTS.—The head of each agency
19 listed in section 901(b)(1) or 901(b)(2) of title
20 31, other than the Department of Defense,
21 shall ensure that the Chief Information Officer
22 of the agency has authority over any acquisition
23 of an information technology product or service
24 that is a commercially available off-the-shelf
25 item.

1 “(2) PERSONNEL-RELATED AUTHORITY.—The
2 head of each agency listed in section 901(b)(1) or
3 901(b)(2) of title 31, other than the Department of
4 Defense, shall ensure that the Chief Information Of-
5 ficer of the agency has the authority necessary to—

6 “(A) approve the hiring of personnel who
7 will have information technology responsibilities
8 within the agency; and

9 “(B) require that such personnel have the
10 obligation to report to the Chief Information
11 Officer in a manner considered sufficient by the
12 Chief Information Officer.”.

13 (c) SINGLE CHIEF INFORMATION OFFICER IN EACH
14 AGENCY.—

15 (1) REQUIREMENT.—Section 3506(a)(3) of title
16 44, United States Code, is amended—

17 (A) by inserting “(A)” after “(3)”; and

18 (B) by adding at the end the following new
19 subparagraph:

20 “(B) Each agency shall have only one individual with
21 the title and designation of ‘Chief Information Officer’.
22 Any bureau, office, or subordinate organization within the
23 agency may designate one individual with the title ‘Deputy
24 Chief Information Officer’, ‘Associate Chief Information
25 Officer’, or ‘Assistant Chief Information Officer’.”.

1 (2) **EFFECTIVE DATE.**—Section 3506(a)(3)(B)
2 of title 44, United States Code, as added by para-
3 graph (1), shall take effect on October 1, 2014. Any
4 individual serving in a position affected by such sec-
5 tion before such date may continue in that position
6 if the requirements of such section are fulfilled with
7 respect to that individual.

8 **SEC. 883. LEAD COORDINATION ROLE OF CHIEF INFORMA-**
9 **TION OFFICERS COUNCIL.**

10 (a) **LEAD COORDINATION ROLE.**—Subsection (d) of
11 section 3603 of title 44, United States Code, is amended
12 to read as follows:

13 “(d) **LEAD INTERAGENCY FORUM.**—

14 “(1) **DESIGNATION.**—

15 “(A) **IN GENERAL.**—The Council is des-
16 ignated the lead interagency forum for improv-
17 ing agency coordination of practices related to
18 the design, development, modernization, use,
19 operation, sharing, performance, and review of
20 Federal Government information resources in-
21 vestment.

22 “(B) **RESPONSIBILITIES.**—As the lead
23 interagency forum, the Council shall—

24 “(i) develop cross-agency portfolio
25 management practices to allow and encour-

1 age the development of cross-agency
2 shared services and shared platforms; and

3 “(ii) issue guidelines and practices for
4 expansion of the Federal enterprise archi-
5 tecture process, if appropriate.

6 “(C) GUIDELINES AND PRACTICES.—The
7 guidelines and practices issued under subpara-
8 graph (B)(ii)—

9 “(i) may address broader trans-
10 parency, common inputs, common outputs,
11 and outcomes achieved; and

12 “(ii) shall be used as a basis for com-
13 paring performance across diverse missions
14 and operations in various agencies.

15 “(2) REPORTS.—

16 “(A) DEFINITION.—in this paragraph, the
17 term ‘relevant congressional committees’ means
18 each of the following:

19 “(i) The Committee on Homeland Se-
20 curity and Governmental Affairs and the
21 Committee on Appropriations of the Sen-
22 ate.

23 “(ii) The Committee on Oversight and
24 Government Reform and the Committee on

1 Appropriations of the House of Represent-
2 atives.

3 “(B) REQUIRED REPORTS.—Not later than
4 December 1 in each of the 6 years following the
5 date of the enactment of this paragraph, the
6 Council shall submit to the relevant congress-
7 sional committees a report (to be known as the
8 ‘CIO Council Report’) summarizing the Coun-
9 cil’s activities in the preceding fiscal year and
10 containing such recommendations for further
11 congressional action to fulfill its mission as the
12 Council considers appropriate.”.

13 (b) REFERENCES TO ADMINISTRATOR OF E-GOVERN-
14 MENT AS FEDERAL CHIEF INFORMATION OFFICER.—

15 (1) REFERENCES.—Section 3602(b) of title 44,
16 United States Code, is amended by adding at the
17 end the following: “The Administrator may also be
18 referred to as the Federal Chief Information Offi-
19 cer.”.

20 (2) DEFINITION.—Section 3601(1) of title 44,
21 United States Code, is amended by inserting “or
22 ‘Federal Chief Information Officer’ ” before
23 “means”.

1 **SEC. 884. REPORTS BY GOVERNMENT ACCOUNTABILITY OF-**
2 **FICE.**

3 (a) DEFINITIONS.—In this section:

4 (1) CHIEF INFORMATION OFFICERS COUNCIL.—

5 The term “Chief Information Officers Council”
6 means the Chief Information Officers Council estab-
7 lished by section 3603(a) of title 44, United States
8 Code.

9 (2) RELEVANT CONGRESSIONAL COMMIT-
10 TEES.—The term “relevant congressional commit-
11 tees” means each of the following:

12 (A) The Committee on Homeland Security
13 and Governmental Affairs and the Committee
14 on Appropriations of the Senate.

15 (B) The Committee on Oversight and Gov-
16 ernment Reform and the Committee on Appro-
17 priations of the House of Representatives.

18 (b) REQUIREMENT TO EXAMINE EFFECTIVENESS.—
19 The Comptroller General of the United States shall exam-
20 ine the effectiveness of the Chief Information Officers
21 Council in meeting its responsibilities under section
22 3603(d) of title 44, United States Code, as added by sec-
23 tion 883, with particular focus whether agencies are ac-
24 tively participating in the Council and following the Coun-
25 cil’s advice and guidance.

1 (c) REPORTS.—Not later than 1 year, 3 years, and
2 5 years after the date of enactment of this Act, the Comp-
3 troller General shall submit to the relevant congressional
4 committees a report containing the findings and rec-
5 ommendations of the Comptroller General from the exam-
6 ination required by subsection (b).

7 **SEC. 885. ENHANCED TRANSPARENCY IN INFORMATION**
8 **TECHNOLOGY INVESTMENTS.**

9 (a) PUBLIC AVAILABILITY OF INFORMATION ABOUT
10 IT INVESTMENTS.—Section 11302(c) of title 40, United
11 States Code, is amended—

12 (1) by redesignating paragraph (2) as para-
13 graph (3); and

14 (2) by inserting after paragraph (1) the fol-
15 lowing new paragraph:

16 “(2) PUBLIC AVAILABILITY.—

17 “(A) IN GENERAL.—The Director shall
18 make available to the public the cost, schedule,
19 and performance data for at least 80 percent
20 (by dollar value) of all information technology
21 investments in each Federal agency listed in
22 section 901(b) of title 31, without regard to
23 whether the investments are for information
24 technology acquisitions or for operations and
25 maintenance of information technology. The Di-

1 rector shall ensure that the information is cur-
2 rent, accurate, and reflects the risks associated
3 with each covered information technology in-
4 vestment.

5 “(B) WAIVER OR LIMITATION AUTHOR-
6 ITY.—If the Director or the Chief Information
7 Officer, as the case may be, determines that a
8 waiver or limitation is in the national security
9 interests of the United States, the applicability
10 of subparagraph (A) may be waived or the ex-
11 tent of the information may be limited—

12 “(i) by the Director, with respect to
13 information technology investments Gov-
14 ernmentwide; and

15 “(ii) by the Chief Information Officer
16 of a Federal agency listed in section
17 901(b) of title 31, with respect to informa-
18 tion technology investments in that Fed-
19 eral agency.”.

20 (b) ADDITIONAL REPORT REQUIREMENTS.—Para-
21 graph (3) of section 11302(c) title 40, United States Code,
22 as redesignated by subsection (a), is amended by adding
23 at the end the following: “The report shall include an anal-
24 ysis of agency trends reflected in the performance risk in-
25 formation required in paragraph (2).”.